

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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FELIX LUNA,

Plaintiff,

**Motion to Substitute Party
FRCP 25(a)**

v.

Docket No. 19-cv-01709

MARQUIS REALTY, LLC, SAM DAVID and
LAZER KVIAT A/K/A ABRAHAM LAZER KVIAT,

Defendants.

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**SUGGESTION OF DEATH UPON THE RECORD and
MOTION FOR SUBSTITUTION OF PARTY PURSUANT TO RULE 25(a)(1)**

Counsel for Plaintiff in the above-referenced action gives notice and suggests upon the record, pursuant to Rule 25(a)(1) of the Federal Rules of Civil Procedure, the death of Felix Luna, plaintiff in this action.

Felix Luna passed away on May 20, 2019. His Death Certificate is attached as Exhibit A. On October 9, 2019, Mr. Luna's son, Felix M. Luna, was appointed administrator of the estate of Felix Luna, as evidenced by the Letter of Administration attached as Exhibit B. Felix M. Luna only first received correct copies of the Letters of Administration in early November.

Pursuant to Rule 25(a) of the Federal Rules of Civil Procedure, it is hereby requested that "Felix M. Luna, Administratror of the Estate of Felix Luna, Deceased" be substituted in place of "Felix Luna" as plaintiff in this action, so that decedent's claims survive, and the action on his behalf may proceed.

We have conferred with Defendants' Counsel, and Defendants take no position concerning the relief requested herein.

Dated: New York, New York
November 20, 2019

Respectfully submitted,



By:

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Attorneys for Plaintiff

SO ORDERED:

Paul G. Gardephe
Paul G. Gardephe, U.S.D.J.
Dec. 17, 2019

VITAL RECORDS CERTIFICATE

DATE FILED: THE CITY OF NEW YORK - DEPARTMENT OF HEALTH AND MENTAL HYGIENE

CERTIFICATE OF DEATH

Certificate No. 156-19-021643

NEW YORK CITY
DEPARTMENT OF HEALTH
AND MENTAL HYGIENE
May 24, 2019 01:29 PM

1. DECEASED'S
LEGAL NAME **FELIX LUNA**
(First, Middle, Last)

MEDICAL CERTIFICATE OF DEATH (To be filled in by the Physician)		DEATH RECORD									
Place of Death	2a. New York City	2c. Type of Place	4 <input checked="" type="checkbox"/> Nursing Home/Long Term Care Facility			2d. Any Hospice care in last 30 days	2e. Name of hospital or other facility (if not facility, street address)				
	2b. Borough	1 <input type="checkbox"/> Hospital Inpatient	5 <input type="checkbox"/> Hospice Facility	1 <input type="checkbox"/> Yes	Workmen's Circle Nursing Home						
Bronx	2 <input type="checkbox"/> Emergency Dept./Outpatient	6 <input type="checkbox"/> Decedent's Residence	2 <input checked="" type="checkbox"/> No								
	3 <input type="checkbox"/> Dead on Arrival	7 <input type="checkbox"/> Other Specify _____	3 <input type="checkbox"/> Unknown								
Date and Time of Death	3a. (Month)	(Day)	(Year-YYYY)	3b. Time	3c. AM	4. Sex	5. Date last attended by a Physician				
	May	20	2019	5:38	PM	Male	mm dd yyyy 05 17 2019				
6. Certifier: I certify that death occurred at the time, date and place indicated and that to the best of my knowledge traumatic injury or poisoning did not play any part in causing death, and that death did not occur in any unusual manner and was due entirely to NATURAL CAUSES. See instructions on reverse of certificate.											
Name of Physician SANDRA PASCAL (Type or Print)				Signature <i>Sandra Pascal</i>				D.O. M.D.			
Address 3155 Grace Ave Bronx, NY 10469				Signature Electronically Authenticated				Date MAY-20-2019			
7a. Usual Residence State New York		7b. County Bronx		7c. City or Town Bronx		7d. Street and Number 1210 Stratford Ave		Apt. No. Apt 1A		ZIP Code 10472	
8. Date of Birth (Month) July		(Day) 01		(Year-YYYY) 1949		9. Age at last birthday (years) 69		Under 1 Year Months *** 2		Under 1 Day Days *** 3	
10. Social Security No. 056-44-6406		11a. Usual Occupation (Type of work done during most of working life). Do not use "retired". Superintendent		11b. Kind of business or industry Superintendent Services		12. Aliases or AKAs *****		13. Birthplace (City & State or Foreign Country) Dominican Republic		14. Education (Check the box that best describes the highest degree or level of school completed at the time of death) 1 <input type="checkbox"/> 6th grade or less: none 2 <input type="checkbox"/> 9th - 12th grade: no diploma 3 <input checked="" type="checkbox"/> High school graduate or GED 4 <input type="checkbox"/> Some college credit, but no degree 5 <input type="checkbox"/> Associate degree (e.g., AA, AS) 6 <input type="checkbox"/> Bachelor's degree (e.g., BA, AB, BS) 7 <input type="checkbox"/> Master's degree (e.g., MA, MS, MEng, MEd, MSW, MBA) 8 <input type="checkbox"/> Doctorate (e.g., Ph.D., EdD) or Professional degree (e.g., MD, DDS, DVM, LLB, JD)	
15. Ever in U.S. Armed Forces? 1 <input type="checkbox"/> Yes 2 <input checked="" type="checkbox"/> No		16. Marital Partnership Status at time of death 1 <input type="checkbox"/> Married 2 <input type="checkbox"/> Domestic Partnership 3 <input type="checkbox"/> Divorced 4 <input type="checkbox"/> Married, but Separated 5 <input checked="" type="checkbox"/> Never Married 6 <input type="checkbox"/> Widowed 7 <input type="checkbox"/> Other, Specify _____ 8 <input type="checkbox"/> Unknown		17. Surviving Spouse's/Partner's Name (If wife, name prior to first marriage) (First, Middle, Last) Ana Mercedes Disla							
18. Father's Name (First, Middle, Last) Marino Luna		19. Mother's Maiden Name (Prior to first marriage) (First, Middle, Last) Ana Mercedes Disla									
20a. Informant's Name Angela Castro		20b. Relationship to Decedent Cousin		20c. Address (Street and Number) 1336 Noble Ave Bronx, NY		Apt. No. 10472		City & State 10472			
21a. Method of Disposition 1 <input type="checkbox"/> Burial 2 <input type="checkbox"/> Cremation 3 <input type="checkbox"/> Entombment 4 <input type="checkbox"/> City Cemetery 5 <input type="checkbox"/> Other, Specify _____		21b. Place of Disposition (Name of cemetery, crematory, other place) Rosemount Crematory									
22a. Funeral Establishment R.G. Ortiz Funeral Home, Inc. (Westchester Av)		22b. Address (Street and Number) 2121 Westchester Ave Bronx, NY 10462		City & State 10462		ZIP Code 10462					

Gretchen Van Wye

Gretchen Van Wye, Ph.D., City Registrar as of 9/1/18

This is to certify that the foregoing is a true copy of a record on file in the Department of Health and Mental Hygiene. The Department of Health and Mental Hygiene does not certify to the truth of the statements made thereon, as no inquiry as to the facts has been provided by law.

Steven P. Schwartz
Steven P. Schwartz, Ph.D., City Registrar

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**Surrogate's Court of the State of New York
Bronx County**

Certificate of Appointment of Administrator

File #: 2019-2143

IT IS HEREBY CERTIFIED that Letters in the estate of the Decedent named below have been granted by this court, as follows:

Name of Decedent: **Felix Luna**

Date of Death: **May 20, 2019**

Domicile: **Bronx NY**

Fiduciary Appointed: **Felix M Luna**

Mailing Address: **7447 Nicklin Street
Las Vegas NV 89143**

Type of Letters Issued: **LIMITED LETTERS OF ADMINISTRATION**

Letters Issued On: **October 9, 2019**

Limitations: These letters authorize the collection of a total of \$-0-. The collection in excess of that amount must be authorized by a further order of the Surrogate

These Letters are issued with the limited and restricted powers as specified in SCPA SEC. 702 (1)

IT IS FURTHER ORDERED that Felix Luna in both his/her individual and fiduciary capacity, as well as any attorney who represents him/her in either capacity, shall not permit the collection or receipt of the proceeds from any action instituted or settled pursuant to the authority granted by these letters without the further order of this court or a court of competent jurisdiction pursuant to EPTL Sec. 5-4.6.

and such Letters are unrevoked and in full force as of this date.

Dated: **October 30, 2019**

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of the Bronx County Surrogate's Court at Bronx, New York.

WITNESS, Hon. Nelida Malave-Gonzalez, Judge of Bronx County Surrogate's Court.

Elix R. Madera-Fliegelman

**Elix Madera-Fliegelman, Deputy Chief Clerk
Bronx County Surrogate's Court**

This Certificate is Not Valid Without the Raised Seal of the Bronx County Surrogate's Court